

MOTTL, Richard
S.N. 10/609,302
PTO CUSTOMER NUMBER: 22807

REMARKS

Reconsideration and continued examination is respectfully requested in view of the amendments and remarks.

Examiner's Telephonic Interview.

The Applicant wishes to thank the Examiner for her time and consideration during the telephonic interview conducted on August 9, 2004 with the Applicant's representative. During that interview, the Examiner acknowledged that amending the claims to include elements related to certain structural details not disclosed by the prior art would enable the present invention to be patentable over the art of record. Specifically, the Examiner acknowledged that the prior art of record did not disclose a bib that covers the wearer's front torso and lap that comprised a front member with a series of buttons, a breast pocket, and a collar element to enable the bib to resemble a normal article of clothing. The Examiner also stated that she would have to conduct an additional search if the Applicant amended the claims to recite these structural elements.

In response to this interview, Applicant has amended the claims to recite structural limitations relating to a bib that covers the wearer's front torso and lap that includes a collar, breast pocket, and buttons that enable the bib to resemble an actual piece of clothing.

Disposition of the Claims.

Claims 1-3, 5-7, and 9-12 are pending in the instant application. Specifically, claims 1-3, 5-7, and 9-12 have been rejected based on prior art while claims 4, 8, and 13 have been cancelled by way of this amendment.

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Summary of Prior Art Rejections.

The Examiner has rejected claims 1-4, 5, 7, and 8 under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,929,528 to Trombetti. ("Trombetti"). The Examiner has also rejected claims 12-13 under 35 USC §103(a) as being unpatentable in view of the Trombetti reference. Additionally, claims 5-10 have been rejected under 35 USC §103(a) as being unpatentable when U.S. Patent No. 445,548 to Filkins ("Filkins") is viewed with U.S. Patent No. 317,693 to Wilde ("Wilde"). Finally, the Examiner has rejected claim 11 as being unpatentable when Filkins and Wilde are viewed with the article by Maurice Gershman ("Gershman").

Applicant's Newly Amended Claims are Not Anticipated By the Trombetti Patent.

The Examiner has rejected claims 1-4, 5, 7, and 8 as being anticipated by Trombetti. The Examiner contends that Trombetti discloses the invention substantially as claimed in claims 1-4, 5, 7, and 8.

A review of Trombetti shows that this reference discloses a nursing bib which can contain pockets along the bottom edge, a decorative collar element, and a series of buttons. Trombetti does not disclose that the nursing bib includes a decorative pocket attached to the front portion of the bib. Moreover, the upper loop portion of the bib that surrounds the wearer's neck does not cover the wearer's upper back by extending from the wearer's neck to just below the wearer's shoulder blades.

In response, Applicant has amended independent claim 1 to include the limitation of a decorative pocket attached to the

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upper portion of the front member. Claim 1 has also been amended to include the limitation of a shoulder covering member that substantially covers the wearer's shoulders and upper back by extending from the neckline to just below the wearer's shoulder blades. Claim 5 has been amended to include the limitation relating to the shoulder covering member that covers the wearer's shoulders and upper back. Applicant avers that no new matter is introduced by way of these amendments as the specification as filed discloses the use of a pocket member in one embodiment to enable the bib to resemble a man's shirt. Moreover, FIGS. 3 and 5 of the specification depict the bib containing a shoulder covering member that substantially covers the wearer's upper back by extending from the wearer's neck line to just below the wearer's shoulder blades. See FIGS. 3 and 5.

The Examiner is respectfully requested to withdraw her rejection of claims 1 and 5 as being anticipated by Trombetti since this patent fails to disclose either a decorative pocket member or a shoulder covering member that substantially covers the wearer's shoulder and upper back as now claimed in newly amended claims 1 and 5. The Examiner is also respectfully requested to withdraw her rejection of dependent claims 2-4 and 7-8 as being anticipated by Trombetti as claims 4 and 8 have been cancelled and claims 2-3 and 7 depend from allowable base claims.

Applicant's Newly Amended Claims are Not Obvious In View of the Trombetti Patent.

The Examiner has rejected claims 12 and 13 as being obvious in view of Trombetti.

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Applicant has cancelled claim 13. Claim 12 has been amended to include structural limitations not disclosed by Trombetti. Specifically, claim 12 has been amended to include limitations directed to a decorative pocket attached to the front member and a shoulder covering member that substantially covers said wearer's shoulder and upper back by extending from the neck line to just below the shoulder blades.

As noted above, Trombetti fails to disclose either of these limitations contained in newly amended claim 12. Therefore, claim 12 is not obvious in view of Trombetti and the Examiner is respectfully requested to withdraw her rejection of claim 12 on this ground. Claim 13 has been cancelled and the rejection of claim 13 is now moot.

Applicant's Newly Amended Claims are Not Obvious When the Filkins Patent Is Viewed with the Wilde Patent.

The Examiner has rejected claims 5-10 as being obvious when Filkins is viewed with Wilde. The Examiner states that Filkins discloses the invention substantially as claimed except that it does not disclose the use of buttons extending from the bottom portion to the upper portion of the front member or a pocket element located along the bottom portion of the front member. The Examiner states that Wilde discloses such buttons and a pocket element.

A review of Filkins reveals that it discloses an apron with a breast pocket. Wilde discloses a body protector with a set of real or imitation pockets ("m") attached to the front portion of the protector.

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Both Filkins and Wilde disclose that the apron is designed to mimic a vest. See Wilde, lines 29-32 reading ". . . is constructed in the form of a vest". See also Filkins, lines 50-51, "giving the apron the appearance of a vest or coat". Since both these devices are designed to mimic a vest or coat, they do not cover the wearer's lap. In fact, since these garments are designed to mimic vests or similar articles of clothing, it would be inappropriate for them to cover the wearer's lap as vests are only designed to cover the wearer's upper torso and not the wearer's legs or lap. Additionally, the pockets disclosed by Wilde are not located along the bottom edge of the apron. As shown in FIGS. 1, 2, and 4, the pockets in Wilde are placed on the lower portion of the apron. See Wilde FIGS. 1, 2, and 4.

In response, Applicant has amended independent claims 5 and 9 to recite a front member that covers both the wearer's front torso and lap. Claims 5 and 9 have also been amended to recite that the pocket elements are located along the bottom edge of the front member. Applicant avers that no new matter is introduced by way of these amendments as a front member that covers the wearer's lap is disclosed on page 9, lines 7-8 of the specification as filed. See the Specification, page 9, lines 7-8. Additionally, the specification as filed discloses that the pockets are located on the bottom edge of the front member. See the specification, page 10, lines 23-24.

These amendments distinguish the present invention from the Wilde and Filkins patents. First, neither patent discloses an apron that covers the wearer's front torso and lap. Second, the pockets disclosed by Wilde are not located along the bottom edge

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of the apron. Since the pockets in Wilde are distinct from the pockets as claimed in the present invention and neither the Wilde nor Filkins disclose a vest that covers the wearer's lap, newly amended claims 5 and 9 are not obvious in view of these references.

Therefore, the Examiner is respectfully requested to withdraw her rejection of these claims as being obvious when Filkins is viewed with Wilde. The Examiner is also respectfully requested to withdraw her rejection of dependent claims 6-8 and 10 on these grounds as claim 8 has been cancelled and claims 6-7 and 10 depend from allowable base claims.

Applicant's Newly Amended Claim 11 is Not Obvious When the Filkins and Wilde Patents Are Viewed With the Article By Gershman.

The Examiner has rejected claim 11 as being obvious when Filkins and Wilde are viewed with the article by Gershman. The Examiner contends that the Filkins and Wilde patents disclose the invention substantially as claimed in claim 11, but fail to disclose the use of a hook and loop fastener. The Examiner states that the Gershman article discloses such a fastener and that claim 11 would be obvious when these three references are viewed together.

Claim 11 depends from claim 10 which in turn depends from amended claim 9 which is believed to be non-obvious in light of Filkins and Wilde. Since claim 11 depends from an amended claim which is believed to be allowable, the Examiner is respectfully requested to withdraw her rejection of claim 11 on this ground.

Conclusion

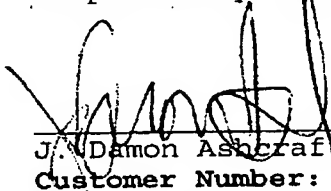
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By the present response, the Applicant has made amendments and provided arguments in support of his position that the cited prior art does not disclose specific structural elements of the claimed invention. Specifically, the Applicant has amended independent claims 1, 5, 9, and 12 to distinguish them from the prior art cited by the Examiner. The remaining claim amendments set forth herein were made to more clearly define what Applicant regards as his invention. Accordingly, the application is in a condition for allowance and expeditious notice thereof is earnestly solicited.

If the Examiner has any comments or suggestions which would place the application in still better condition for allowance, she is respectfully requested to call the undersigned attorney collect.

Respectfully submitted,

11/19/04
Date


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